



August 10, 2020

Charles Rettig
Commissioner
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Certain Medical Care Arrangements

Dear Commissioner Rettig,

The American Academy of PAs (AAPA), on behalf of the more than 140,000 PAs (physician assistants) throughout the United States, appreciates the opportunity to provide comments on the Internal Revenue Service (IRS) medical care arrangements proposed rule. AAPA welcomes the IRS review of these policies and we focus our comments on direct primary care (DPC) arrangements.

The medical care arrangements proposed rule discusses “direct primary care arrangements.” Such arrangements typically include a direct contract between a patient and a primary care health professional or group of primary care health professionals that outlines care in return for a fixed fee without billing a third party. The IRS is proposing in the rule to treat expenses incurred by patients under “direct primary care arrangements” as eligible medical expenses under US Code Section 213(d). This would allow for “direct primary care arrangement” medical expenses to potentially be deductible from a patient’s taxes.

AAPA has serious concerns regarding the physician-centric language used when discussing “direct primary care arrangements.” The narrow way in which “direct primary care arrangements” is defined, citing them as arrangements between patients and “primary care physicians,” is exclusionary to other health professionals, such as PAs, who are frequent providers of primary care services to patients. In defining the term “primary care physician,” which is used throughout the section of the rule that discusses “direct primary care arrangements,” the IRS sites paragraph I of the broader definition of “primary care practitioner” in [section 1833\(x\)\(2\)\(A\)\(i\) of the Social Security Act \(SSA\)](#), overlooking the non-physician health professionals listed in paragraph II of the definition. The IRS explicitly requested feedback as to whether the definition should be broadened to account for care provided by other health professionals.

AAPA encourages the IRS to broaden its definition of “direct primary care arrangements” by replacing the term “primary care physician” with the broader term “primary care practitioner” that encompasses health professionals listed in both paragraph I and II. Patients are commonly treated by PAs and for many patients a

PA is their principle health professional. As such, utilizing exclusionary terminology like “primary care physician” may be interpreted to prohibit expenses from care provided by PAs and advanced practice registered nurses from being eligible as a medical expense deduction.

Both public and private payers acknowledge the role of PAs as primary care practitioners through policy and reimbursement practices. The Affordable Care Act formally acknowledged PAs as one of the three groups of primary care practitioners ([Section 5501\(a\)\(2\)\(A\)\(i\)\(II\)](#)). Accordingly, PAs were eligible for the Medicare primary care incentive when it was offered.

In addition, healthcare.gov, which is run by the Centers for Medicare and Medicaid Services, [defines primary care providers](#) as “A physician (M.D. – Medical Doctor or D.O. – Doctor of Osteopathic Medicine), nurse practitioner, clinical nurse specialist or *physician assistant (emphasis added)*, as allowed under state law, who provides, coordinates or helps a patient access a range of health care services.” Alternative Payment Models, such as Primary Care First, also [explicitly recognize](#) PAs as primary care practitioners. More than 30 States have statutory or regulatory language designating PAs as eligible to be primary care providers. PAs are also recognized as primary care providers by Medicare’s *Program of All-Inclusive Care for the Elderly (PACE)* and federal loan repayment programs.

As a result of the broad recognition of PAs as providers of primary care, AAPA requests that the IRS broaden the language it uses in the proposed rule to recognize that non-physician health professionals, such as PAs, may provide “direct primary care arrangement” services. This would allow patients who receive primary care from such health professionals to be able to utilize the corresponding tax deduction.

AAPA welcomes further discussion with the IRS regarding these issues. For any questions you may have please do not hesitate to contact Michael Powe, AAPA Vice President of Reimbursement & Professional Advocacy, at michael@aapa.org.

Sincerely,

A handwritten signature in black ink that reads "Beth Smolko". The signature is written in a cursive style and is centered within a light gray rectangular box.

Beth R. Smolko, DMSc, MMS, PA-C
President and Chair of the Board